IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

WRIT PETITION NO. 559 OF 2006

Usha M. Mahadik ...Petitioner

vs.

Parle Products Ltd

and anr. ...Respondents

Hutoxi Tawadia i/by. Mahesh Thorat

for the petitioner.

S.M. Naik for respondent no.1.

P.M. Palshikar (AGP) for respondent no.2.

CORAM: S.U. KAMDAR, J.

DATED: 20TH MARCH,2006.

P.C. :

1. The present petition challenges the order passed by the 6th Labour Court, Bombay both under Part-I and Part-II. By the said two orders the labour court has held that the inquiry which was conducted by

the company was just and fair and in accordance with law and the findings of the inquiry officer are not perverse. By Part II of the order the Labour Court has held that the punishment awarded is correct and not disproportionate to the charges levelled.

2. The present case is where the petitioner has been charged with assaulting the co-worker on 13.9.2005. At about 9.30 a.m. when the co-worker went for a cup of tea to the canteen at that time without any provocation the petitioner caught hold of her and assaulted her and consequently she fell on the ground. Ultimately two ladies rescued the co-worker Mrs. Mani Dodhia. Even when she was taken away by other workers still petitioner did not stop and continued abusing and threatening the said Mani Dodhia in filthy language. On the basis of the aforesaid the petitioner was chargesheeted and a domestic inquiry was conducted. The enquiry officer recommended the punishment of dismissal and accordingly the disciplinary authority has awarded the penalty of dismissal to the petitioner. It is this order which was challenged by the petitioner before the labour

court.

3. ‘The Trial court in Part I of the award has given a finding that there is no perversity in the finding of the enquiry officer where he has recorded finding of guilt against the petitioner workmen. He has relied upon the evidence which was on record particularly the oral evidence of the other witness wgucg arriving at the said conclusion. In so far as the fair and justness of the inquiry is concerned the learned counsel for the petitioner has fairly stated that the same was not questioned before the 6th Labour court as recorded in Para 3 of the Part I of the award. However learned counsel for the petitioner has contended that the finding given by the labour court about the establishment of the guilt of the petitioner is perverse. Learned counsel for the petitioner has contended that there has not been any documentary evidence on record and mere oral testimony is not sufficient for holding that the petitioner is guilty of such serious misconduct.

4. On perusal of Part I of the said award

particularly Issue no.2 it is evidence that sufficient evidence has been produced by the employer to establish the aforesaid incident. Two of the co-workers namely Gita and Parvati have given their deposition who rescued the said Mani Dodhia from the hands of the petitioner herein. This fact is also corroborated by all the management witness and they are fully cross examined. I am of the opinion that in the light of the aforesaid evidence laid before the enquiry officer the findings given by the 6th that there is no perversity in the decision arrived by the enquiry officer can not be faulted with. In any event the labour court has reconsidered the entire material and has given a finding of fact that there is sufficient evidence to hold the petitioner guilty. In my opinion such finding of fact cannot be interfered with in writ jurisdiction under Article 226 of the Constitution of India.

5. In so far as the punishment is concerned in my opinion the misconduct which is alleged of assault by the petitioner on the co-worker is a serious case and the punishment given of discharge of workmen is

appropriate and cannot be interfered with. Petition therefore fails and accordingly dismissed.

SD/-

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